

REMARKS

This is a full and timely response to the Office Action mailed July 8, 2008. The Examiner has required the Applicants to elect to prosecute one of seven species identified in the Office action.

A. Substance of Examiner Interview

Applicants wish to thank Examiner for the telephone conversation between Examiner and Applicants' representative on July 30, 2008. The conversation was initiated by Applicants' representative for purposes of clarifying the nature of the restriction. Examiner pointed out that the Office action incorporated "OR" and "AND" terms in carrying out the restriction requirement. Specifically, Applicants were advised to elect one claim from amongst claims 4, 5, or 6; and another claim from amongst claims 7, 8, 9, or 10. Applicants sincerely thank Examiner for providing this clarification and have acted accordingly in the election below.

B. Election/Restrictions

Statement of the Office Action

2. *The specifics of the method and device comprising a module wherein the shaped tip is a barbed tip comprising a first embodiment corresponding to claim 4; OR*
3. *The specifics of the method and device comprising a module wherein the shaped tip is a tapered tip comprising a second embodiment corresponding to claim 5; OR*
4. *The specifics of the method and device comprising a module wherein the shaped tip is a straight tip comprising a third embodiment corresponding to claim 6; AND*
5. *The specifics of the method and device comprising a module wherein the recess is a V-shaped recess comprising a fourth embodiment corresponding to claim 7; OR*
6. *The specifics of the method and device comprising a module wherein the recess is a U-shaped recess comprising a fifth embodiment corresponding to claim 8; OR*
7. *The specifics of the method and device comprising a module wherein the recess comprises a first portion having straight sides and a second portion that is V-shaped comprising a sixth embodiment corresponding to claim 9; OR*

8. *The specifics of the method and device comprising a module wherein the recess has a stepped cross section comprising a seventh embodiment corresponding to claim 10.*
9. *The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.*

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently claim 1 is generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics.

(Emphasis added to the word “AND” for distinguishing it from the word “OR” in the restriction).

Response to the Election/Restriction requirement

In response to the restriction requirement, Applicants elect, with traverse, to prosecute the “shaped tip” species recited in claim 4 and the “recess” species recited in claim 7. Claims 5, 6, and 8-10 are hereby withdrawn. The subject matter pertaining to claim 4 is disclosed in Applicants’ original specification page 3 (line 27) and shown in Fig. 1, while the subject matter pertaining to claim 7 is disclosed in Applicants’ original specification page 4 (lines 12-13) and shown in Fig. 5.

Notwithstanding the election made above, Applicants respectfully request withdrawal of the restriction requirement. The MPEP provides the following guideline for making an assessment of the imposed burden when issuing a restriction requirement:

For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02. (Emphasis added)

The Office action alleges that each of the identified species would require different field of search. However, this allegation is a generalization that is not backed with any specifics in terms of, for example, identifying the different classes/subclasses that may have to be used.

Notwithstanding this aspect, it may be further relevant to point out that in its discussion of the propriety of restrictions, MPEP § 803 further states that if search and examination of two or

more inventions can be made without “serious burden,” the examiner must examine them on the merits even if the claims are directed to distinct or independent inventions.

In the present case, the seven species, although not necessarily obvious in view of each other, are very similar in subject matter. More specifically, claims 4-6 pertain to a “shaped tip” while claims 7-10 pertain to a “recess.” Applicants respectfully submit that a prior art search for “shaped tip” would simultaneously uncover material pertaining to all claims 4-6, while a prior art search for “recess” would simultaneously uncover material pertaining to all claims 7-10. Consequently, Applicants humbly submit that this type of search would not constitute a “serious burden” on Examiner.

In contrast, the restriction requirement is unfair to Applicants, because it will require Applicants to file and bear the additional cost and time delay associated with filing one or more divisional or continuing applications in order to cover each the pending claims.

For at least the reasons cited above, Applicants respectfully traverse the restriction requirement and hereby request withdrawal of the requirement followed by examination of all claims. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned representative at (404) 610-5689.

Respectfully submitted,

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I hereby certify that this paper is being electronically transmitted to the Commissioner for Patents on the date shown below:

Date of transmission: 4 August 2008
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